

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Numbers EB-02-AT-313, EB-02-AT-314
)	
Verizon Wireless)	NAL/Acct. No.200332480008
Owner of Antenna Structures #1042025 in)	
Baileytown, Tennessee and #1042026 in)	FRN 0003-2906-73
Greeneville, Tennessee)	
Alpharetta, Georgia)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: November 5, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Verizon Wireless (“Verizon”), owner of antenna structures #1042025 and #1042026, apparently liable for a forfeiture in the amount of six thousand dollars (\$6,000) for willful and repeated violation of Section 17.57 of the Commission's Rules (“Rules”).¹ Specifically, we find Verizon Wireless apparently liable for failure to notify the Commission of a change in ownership of two of its antenna structures.

II. BACKGROUND

2. On July 31, 2002, an agent of the Commission’s Atlanta Field Office (“Atlanta Office”) inspected the antenna structure associated with FCC antenna structure registration (“ASR”) #1042025, located in Baileytown, Tennessee. ASR #1042025 was posted at the structure site. Also on July 31, 2002, the agent inspected the antenna structure associated with FCC ASR #1042026, located in Greeneville, Tennessee. ASR #1042026 was posted at the structure site. The agent determined from the Commission’s ASR database that antenna structures #1042025 and #1042026 were registered to ACC Tennessee License LLC. The agent telephoned the listed contact person for ACC Tennessee License LLC, Gina Zeeburg, who stated that both antenna structures had been sold to Verizon Wireless on February 8, 2002.

3. On September 4, 2002, an agent of the Atlanta Office contacted Verizon Wireless in Atlanta, Georgia, Ms. Carol King, who stated that Verizon had purchased the two antenna structures and was the current owner.

III. DISCUSSION

4. Section 17.57 of the Rules requires the owner of an antenna structure for which an antenna

¹ 47 C.F.R. § 17.57.

structure registration number has been obtained to immediately notify the Commission using FCC Form 854 upon any change in ownership. Antenna structures #1042025 and #1042026 were registered antenna structures and had obtained ASR numbers. Verizon acquired ownership of these two towers on February 8, 2002, yet, as of July 31, 2002, Verizon had failed to notify the Commission of the change in ownership.

5. Based on the evidence before us, we find Verizon willfully² and repeatedly³ violated Section 17.57 of the Rules by failing to report changes in antenna structure ownership.

6. Pursuant to Section 1.80(b)(4) of the Rules,⁴ the base forfeiture amount for failure to file required forms or information (e.g., failure to notify the Commission of a change in ownership information) is \$3,000 for each violation. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵ Verizon failed to update ownership information on two of its antenna structures. Considering the entire record and applying the factors listed above, this case warrants a forfeiture of \$6,000.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Verizon Wireless is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of six thousand dollars (\$6,000) for willful and repeated violation of Section 17.57 of the Rules by failing to notify the Commission of a change in ownership of two of its antenna structures.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Verizon Wireless SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch,

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ The term “repeated,” when used with reference to the commission or omission of any act, “means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Verizon Wireless, One Verizon Place, Alpharetta, Georgia 30004.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

Attachment.

⁸ See 47 C.F.R. § 1.1914.